

CHAPTER 65.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH A MUNICIPAL COURT IN THE CITY OF MINNEAPOLIS," APPROVED FEBRUARY THIRTEENTH, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FOUR, AS AMENDED BY CHAPTER FOUR OF SPECIAL LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FIVE, AND BY CHAPTER ONE HUNDRED AND SEVENTY-EIGHT OF SPECIAL LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SEVEN.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That section one (1) of said act be and the same is hereby amended so as to read as follows :

Section 1. There shall be established in the city of Minneapolis, in the county of Hennepin, a municipal court, for the transaction of all business which may lawfully come before it. Said court shall be a court of record, and shall have a clerk and a seal, and shall have jurisdiction to hear, try and determine civil actions at law where the amount in controversy does not exceed five hundred dollars (\$500), excepting causes involving title to real estate. It shall also have exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases arising or triable within the city of Minneapolis, heretofore cognizable before a justice of the peace. It shall not have jurisdiction of actions for divorce, nor of any action where the relief asked for in the complaint is purely equitable in its nature.

SEC. 2. That section three (3) of said act as amended by an act entitled "An act to amend an act entitled an act to establish a municipal court in the city of Minneapolis," approved February thirteenth (13), one thousand eight hundred and seventy-four (1874,) the same being section one (1) of chapter one hundred and seventy-eight (178) of the Special Laws of one thousand eight hundred and seventy-seven (1877). be and the same is hereby amended so as to read as follows :

Sec. 3. The judge of the municipal court shall be a resident of the city of Minneapolis, a person learned in the law, and duly admitted to practice as an attorney in the courts of this State. Before entering upon the duties of his office, he shall take and subscribe an oath as prescribed in the General Statutes for judicial officers, which oath shall be filed in the office of the city clerk of said city. He shall have the general powers of the judges of courts of record, and may administer oaths, take and certify acknowledgments in all cases, and as a conservator of the peace, shall have all power and authority which is by law vested in justices of the peace or any other judicial officer. There shall be one special judge of said municipal court, whose manner of election, term of office,

powers, duties, and qualifications shall be the same as those of municipal judges, except as otherwise provided in this act, and his successor shall be elected and vacancies in his office filled in like manner. The Governor shall immediately appoint some person duly qualified to fill the vacancies in the office of the said special judge, until his successor be elected at the next general city election and qualified.

In case of a press of business in said court, at the request of the municipal judge, or in case of the absence or sickness of the municipal judge, the said special judge shall act as judge of said court, and when the special judge so acts at the request of the municipal judge, the said special judge and the municipal judge may each have and exercise the powers of the said court. The said special judge shall not act on the trial or examination of any case except as above provided; and such special judge acting as judge of said court, shall receive compensation from the city at the rate of eight dollars per day.

This section shall not incapacitate such special judge from acting as attorney in any case in said court, but when such judge is acting as judge of said court he shall take no action in such case save to adjourn the same.

SEC. 3. That section eight (8) of said act be amended so as to read as follows:

Section 8. The municipal court shall hold regular terms for the trial of civil actions, on the first (1st) and third (3d) Tuesday of every month, which terms shall continue from day to day, with such adjournments as to the court may seem proper, until the business of each term shall be finished, and the court may by rule or order appoint such terms to be held oftener or upon other days than the days above mentioned. All civil actions for the recovery of money only shall be commenced by summons to be issued by the clerk.

The form of the summons may be as follows :

STATE OF MINNESOTA,	} ss.	CITY OF MINNEAPOLIS,
County of Hennepin,		Municipal Court.
STATE OF MINNESOTA.		

To any police officer of the city of Minneapolis, or to the sheriff or any constable of said county :

You are hereby commanded to summons.....
 if..... shall be found within the county of Hennepin, to be and appear before the municipal court of the city of Minneapolis, at a term thereof to be holden on the day of, A. D. 18....., at the opening of the court and answer to....., whose complaint is on file in said court. And have you then and there this writ. The amount claimed by the plaintiff in said complaint is the sum of..... dollars and..... cents, and interest thereon from and since

the day of, A. D. 18....., at the rate of
per cent. per annum.

[L s.] Witness the Honorable Municipal Judge, this
day of, A. D. 18.....

.....
Clerk of Municipal Court.

Or the summons may be in any other form which the court may by rule prescribe, and shall be served upon the defendant at least six (6) days before the term at which the same is made returnable. The manner of service shall be the same as that required by law for the service of summons in courts of Justice of the peace in this State; and a summons issued out of said municipal court may be served by publication in like manner as provided in section twelve (12) and thirteen (13) of title two (2) of chapter sixty-five (65) of the general statutes of 1866 of this State, relating to service of summons by publication. No summons shall issue until the complaint in the action shall be filed with the clerk.

The complaint may be presented in writing to be filed, or may be made orally, and reduced to writing by the clerk. If the defendant fail to appear at the opening of the court on the day at which the summons is returnable, he shall be defaulted. If he so appear, he shall then, or at such time as the court may designate, answer the plaintiff's complaint; and if the answer contain a counter claim, the plaintiff shall reply thereto forthwith, or at such time as the court may designate. The answer or reply shall be reduced to writing and filed with the clerk, and each of such pleadings shall be verified by the party or his agent or attorney, either as in courts of justice of the peace or in the district courts of the State.

Either party may demur to any pleading of his adversary, as in the district court, but all pleadings of this court shall be construed liberally, and merely technical objections shall be disregarded. And the court may, for good cause in its discretion and on such terms as it may deem equitable, open any default at the same term at which it occurred, or allow any amendment of any pleading at any time, and shall disregard variance between the allegations of a pleading and the evidence, unless satisfied that the adverse party is prejudiced thereby. Either party shall be entitled to a continuance of any civil action (except actions for forcible entry and unlawful detainer), until the next term of the court following the term at which the summons shall be made returnable, and further continuances may be granted upon sufficient cause shown, and on such terms as may be just. Said court shall also have authority to provide by rule that the plaintiff in any civil action shall by bond, recognizance or deposit of money with the clerk, give security for costs, in such sum as the court may designate by such rule, before any summons or other process shall issue in the action.

Costs are allowed to the prevailing party in actions commenced in said municipal court, as follows:

To the plaintiff upon a judgment in his favor of one hundred

dollars (\$100.00) or more, or in actions of replevin when the value of the property is one hundred dollars (\$100.00) or more, when no issue of facts or law is joined, five dollars (\$5.00); when an issue is joined, ten dollars (\$10.00)

To the defendant when the amount claimed in the complaint is one hundred dollars (\$100.00) or more, upon discontinuance or dismissal, five dollars (\$5.00), when judgment is rendered in his favor on the merits, ten dollars (\$10.00).

Costs and disbursements shall be taxed and allowed in the first instance by the clerk upon two (2) days notice by either party, and inserted in the entry of judgment.

The disbursements shall be stated in detail and verified by affidavit, which shall be filed. The party objecting to any item shall specify in writing the ground of objection and same in case of appeal shall be certified to the court by the clerk, and the appeal shall be heard and determined upon the objections so certified and none other.

SEC. 4. That section nine (9) of said act be amended so as to read as follows:

Section 9. Any creditor desiring to proceed by attachment in said court, may, at the time of commencing the action or thereafter, and while said action is still pending, by himself, his agent or attorney, make and file with the clerk an affidavit similar to the affidavit required by law in an application for a writ of attachment in justice's courts, and also cause to be filed a bond with sufficient surety, to be approved by the judge, and similar to the bond required on a like application in justices' court, except that the limit of liability thereon shall be mentioned therein, as not exceeding the sum of two hundred and fifty dollars (\$250.00). The writ of attachment may be in form as follows:

STATE OF MINNESOTA,	} ss.	CITY OF MINNEAPOLIS,
County of Hennepin.		Municipal Court.

The State of Minnesota to any police officer of the city of Minneapolis or to the sheriff or any constable of said county:

You are hereby commanded to attach the goods, chattels, moneys, effects and credits of.....or so much thereof as shall be sufficient to satisfy the sum of..... with interest and costs of suit, in whosoever hands or possession the same may be found in said county of Hennepin, and so provide that the same may be subject to further proceedings as the law requires, and make due return of this writ.

Witness the Honorable

Judge of said court, this..... day of
A. D. 187..

Clerk.

Or the writ may be in any other form that the court may by rule prescribe.

In all other respects the service of the writ and other proceedings thereon shall be similar as near as may be to the service of such writ and proceedings in justices' courts.

Sec. 5. That section twelve (12) of said act as amended by section two (2) of act of February twenty-eight (28) eighteen hundred and seventy-seven, (1877) be amended so as to read as follows:

Section 12. Trial by jury in the municipal court shall in all respects be conducted as in the district courts of said State; and all laws of a general nature applicable to jury trials in said district courts, shall apply to said municipal court. Jurors for said municipal court shall be provided and drawn however in the following manner, to wit.: The mayor or president of the city council of the city of Minneapolis, the city clerk and the presiding judge of said municipal court, shall, on the second (2d) Monday of February, May, August and November in each year at the office of the city clerk of said city, meet and from the legal voters of said city, select and designate sixty-four (64) legal voters of said city, as the jurors of said municipal court to serve therein when required, and drawn during the succeeding three months, and until their successors are elected and certified, and shall thereupon certify said names so elected to the clerk of said municipal court, who shall thereupon write said names upon separate ballots, and place the same in a wheel or box, and whenever a jury is required in said court, shall thereupon by lot draw twenty ballots, the persons named upon which shall be summoned to attend the trial of the cause wherein they were drawn, and the first twelve so drawn shall constitute the jury, unless some of said jurors shall be challenged or excused, in which case the clerk shall consecutively call the remaining six (6) jurors so drawn until the panel so drawn shall be exhausted. No talesmen shall be summoned or sit in any cause in said court.

And the first and second series of eighteen (18) ballots each so drawn shall not be returned to said box or wheel until the third (3d) series shall have been drawn from said box. The persons selected to serve as aforesaid shall not again be eligible during the year in which they may have been elected.

Where no provision is otherwise made in this act, said municipal court is vested with all the powers which are possessed by the district courts of the State, and all laws of general nature apply to said municipal court, so far as the same can be made applicable, and not inconsistent with the provisions of this act. Jurors in said municipal court shall be entitled to like fees in the trial of civil actions, as jurors in justices' courts, to be collected and paid in the same manner; but the party demanding a jury in any civil action shall be required to advance the jury fee before the commencement of the trial.

SEC. 6. That section nineteen (19) of said act be amended so as to read as follows:

Section 19. In case it shall appear from the pleadings or upon the trial of any cause, that the title to real estate is involved in the action, the municipal court shall not proceed further therein, but shall transfer the action to the district court of said county, and the cause shall be proceeded with in the court to which it shall be transferred, as if originally commenced therein.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved March 8, 1878.

CHAPTER 66.

AN ACT TO AMEND SECTION SEVEN OF AN ACT ENTITLED "AN ACT TO AMEND AN 'ACT ENTITLED AN ACT TO INCORPORATE THE HASTINGS, MINNESOTA RIVER AND RED RIVER RAILROAD COMPANY,' APPROVED FEBRUARY TWENTIETH, ONE THOUSAND EIGHT HUNDRED AND FIFTY-SEVEN, 'APPROVED MARCH THIRD, ONE THOUSAND EIGHT HUNDRED AND SIXTY-SIX.'"

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That section seven (7) of an act entitled "An act to amend an act entitled an act to incorporate the Hastings, Minnesota River and Red River Railroad Company," approved February twentieth (20th), one thousand eight hundred and fifty-seven, (1857), now known as the Hastings and Dakota Railway Company, be amended so as to read as follows :

Section 7. The said company shall have the right of way upon and may appropriate to its own use and control for the purposes of said road and its appurtenances, land one hundred (100) feet in width throughout its entire length and that of its branches, together with such other widths as the company shall deem necessary for the usual slopes, berms, barrow and gravel pits, waste banks and for the purpose of making drains and giving proper direction to water courses across or along said road; also all other necessary widths for turn-outs, sites for water, depot buildings and store-houses, machine shops and other shops, and extra tracks necessary therefor, in which case such further quantity may be taken as shall be necessary for such purposes; and whenever said company shall deem it necessary to acquire such lands they shall have the right to enter upon, take, hold and occupy such lands, and also to enter upon any lands adjoining said road and obtain therefrom sand, gravel, stone and other materials which may be necessary for the